

FLORIDA DEPARTMENT OF EDUCATION



Dr. Eric J. Smith
Commissioner of Education



DPS: 2009-084
Date: 6/8/09

Technical Assistance Paper

Questions and Answers: National Instructional Materials Accessibility Standard (NIMAS)

Summary:

This technical assistance paper (TAP) provides information about the National Instructional Materials Accessibility Standard (NIMAS), including general definitions and guidelines for assisting the individual educational plan (IEP) teams in determining if a student requires accessible print instructional material. This document identifies which materials must be made accessible; outlines procedures for determining if a student qualifies as print disabled; suggests IEP content relating to a student's need for accessible, specialized formats of print instructional material; and provides information on resources available to the IEP team.

Contact: Dawn Saunders
Program Specialist
(850) 245-0478
dawn.saunders@fldoe.org

Status:

- X New Technical Assistance Paper
Revises and replaces existing Technical Assistance:

Issued by the
Florida Department of Education

Division of Public Schools
Bureau of Exceptional Education and Student Services
<http://www.fldoe.org/ese/>

DR. FRANCES HAITHCOCK
CHANCELLOR OF PUBLIC SCHOOLS

Table of Contents

A. Introduction and Background	1
A-1. What is the purpose of this technical assistance paper (TAP)?	1
B. Definitions	1
B-1. What are NIMAS and NIMAC?	1
B-2. What is the definition of “print instructional materials?”	2
B-3. What is the definition of “specialized formats?”	2
B-4. What is the Chafee Amendment?	2
C. Accessible Instructional Materials	3
C-1. Why are accessible print instructional materials important?	3
C-2. What options exist to help districts provide specialized formats for students with print disabilities?	3
C-3. Are all instructional materials available through NIMAC?	3
C-4. Will schools, classrooms, and students have access to the NIMAS- conformant source files?	3
C-5. Who will create accessible, “student-ready” versions of textbooks from NIMAS-conformant files?	4
C-6. Who is responsible for ordering materials from FIMC-VI for students with print disabilities?	4
D. Student Eligibility for NIMAS-sourced Materials	4
D-1. Which students qualify for the materials produced under NIMAS?	4
D-2. Are struggling readers or students with learning disabilities eligible for NIMAS materials?	5
D-3. How does the IEP team determine if a student needs instructional materials in specialized formats?	6
D-4. What information related to accessible instructional materials is documented in the IEP?	7
Appendices	8
Appendix A – Additional Resources	8
Appendix B – NIMAS/Florida	9

A. Introduction and Background

A-1. What is the purpose of this technical assistance paper (TAP)?

The reauthorization of the Individuals with Disabilities Education Act (IDEA 2004) introduced the National Instructional Materials Accessibility Standard (NIMAS) and the National Instructional Materials Access Center (NIMAC) as a means of providing accessible instructional materials to eligible students with print disabilities in a timely manner [34 CFR 300.172(b)(3); 34 CFR 300.172(e)(1)(i); 34 CFR 300.210(b)(3)]. States must coordinate with the NIMAC in order to access NIMAS-conformant files, which may be used to produce instructional materials in a variety of formats. With the use of these files comes a responsibility on the part of the state educational agency (SEA) and local educational agency (LEA) to ensure that the materials produced from the files are being used appropriately, i.e., exclusively by those students determined eligible.

The individual educational plan (IEP) team is responsible for determining if the student requires materials in specialized formats. To guide that determination, the IEP team should review student information, such as the learning media assessment, current levels of performance, informal reading inventories, as well as the medical diagnosis and prognosis. Additionally, the IEP team should review all specialized formats and options for accessible instructional materials. If the IEP team determines that a student requires textbooks and other instructional materials in specialized formats, school districts have an obligation under IDEA to provide such appropriate accessible materials.

This technical assistance paper will help IEP teams determine if a student requires accessible print instructional material; identify what materials must be made accessible; outline procedures for determining if a student qualifies as print disabled; suggest IEP content relating to a student's need for accessible, specialized formats of print instructional material; and provide information on resources available to the IEP team.

B. Definitions

B-1. What are NIMAS and NIMAC?

NIMAS, the National Instructional Materials Accessibility Standard, is defined in IDEA, Section 674(e)(3)(B), as the standard established by the Secretary of Education to be used in the preparation of electronic files suitable for and used solely for efficient conversion into specialized formats. NIMAS refers to a collection of consistent and valid XML-based source files created by K-12 curriculum publishers. From these well-structured source files, accessible, student-ready, alternate-format versions of textbooks and core materials (e.g., braille, e-Text, Digital Talking Book) can subsequently be created and distributed to qualified students with disabilities. NIMAS files are not student-ready and must be converted or transcribed for student use.

NIMAC, the National Instructional Materials Access Center housed at the American Printing House for the Blind in Louisville, Kentucky, is responsible for:

- Providing access to print instructional materials, including textbooks, in accessible media to persons who are blind or other persons with print disabilities in elementary schools and secondary schools. Access to such materials must be free of charge in accordance with such terms and procedures as the NIMAC may prescribe.
- Developing, adopting, and publishing procedures to protect against copyright infringement, with respect to the print instructional materials provided under sections 612(a)(23) and 613(a)(6) of IDEA.

B-2. What is the definition of “print instructional materials?”

IDEA defines “print instructional materials” as printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a state education agency or school district for use by students in the classroom. [20 U.S.C. 1474(e)(3)(C)]

These materials are made accessible by converting them to specialized formats, such as braille, large print, audio, or digital text.

B-3. What is the definition of “specialized formats?”

In accordance with 34 CFR 300.172(e)(1)(iv), “specialized formats” means braille, audio, or digital text that is exclusively for use by persons who are blind or other persons with disabilities. Print instructional materials with specialized formats includes large print formats when such materials are distributed for use exclusively by individuals who are blind or other persons with disabilities. Specialized formats do not include altering the content (i.e., the complexity) of the print instructional material.

B-4 What is the Chafee Amendment?

The Chafee Amendment of 1996 (PL 104-197) amended “An Act to Provide Books for the Adult Blind” (1931) by making exception to the exclusive rights of a copyright holder. It allows an *authorized entity* to reproduce or distribute copies or recordings of a previously published, non-dramatic literary work (e.g. poetry, novels, and textbooks¹) in specialized formats exclusively for use by persons who are blind or other persons with disabilities. The Chafee Amendment defines “specialized formats,” and IDEA uses that definition.

*Please note: In order to be eligible for NIMAS-sourced materials, students must meet **both** eligibility requirements for exceptional student education **and** the Chafee amendment (see eligibility information in D-1).*

¹ U.S. Copyright Office. (n.d.). *Literary Works*. Retrieved October 31, 2008, from <http://www.copyright.gov/register/tx-examples.html>

C. Accessible Instructional Materials

C-1. Why are accessible print instructional materials important?

The goal for providing access to specialized formats for students with print disabilities is to improve learning outcomes and ensure students have the tools to make adequate progress. Specialized formats may be customized and support diverse student needs and preferences.

C-2. What options exist to help districts provide specialized formats for students with print disabilities?

For those students who qualify for materials produced under the NIMAS, the districts will work through an authorized user (AU) to access those materials. In Florida, the AU for providing materials for students with print disabilities is the Florida Instructional Materials Center for the Visually Impaired (FIMC-VI).

C-3. Are all instructional materials available through NIMAC?

Only those instructional materials published after August 2006 are available through NIMAC. For instructional materials published prior to August 2006, the LEA or FIMC-VI is responsible for obtaining the materials through outside vendors or publishers or for producing the materials in accessible formats itself. Strategies for producing instructional materials in accessible formats include, but are not limited to:

- Converting the textbooks to digital text using optical character recognition (OCR) technology for reading/listening with text to speech software
- Recording the textbook for audio rendition
- Copying the textbooks for large print
- Converting the text to digital format
- Transcribing the text to braille and the graphics to tactile graphics

C-4. Will schools, classrooms, and students have access to the NIMAS-conformant source files?

In Florida, NIMAS-conformant source files will not be distributed at the classroom, school, or district level, since these files require additional enhancements to make them appropriate for student use. ***Only FIMC-VI, the AU for Florida, will access the NIMAS source files and convert them to student-ready materials.***

C-5. Who will create accessible, “student-ready” versions of textbooks from NIMAS-conformant files?

Under contract with FIMC-VI, accessible, student-ready versions of textbooks will be created from NIMAS files by the following:

- National, third-party authorized entities such as Recording for the Blind & Dyslexic, American Printing House for the Blind, Bookshare.org, and Talking Tapes
- Florida Instructional Materials Center for the Visually Impaired
- Software developers and file conversion services
- Curriculum publishers (K–12 curriculum publishers may produce accessible alternate-format versions for direct sale to SEAs and LEAs; this workflow is referred to as the “market model.”)
- Accessible media producers, such as braille transcribers

C-6. Who is responsible for ordering materials from FIMC-VI for students with print disabilities?

Teachers of the visually impaired will continue to register students who are blind or visually impaired with FIMC-VI and place orders for instructional materials.

For eligible students with print disabilities, other than those with visual impairment, school districts shall identify digital rights managers (DRMs). District DRMs will be authorized to register students and order materials. Districts may appoint up to ten DRMs, depending on the size of the district.

D. Student Eligibility for NIMAS-sourced Materials

D-1. Which students qualify for the materials produced under NIMAS?

IDEA uses the eligibility criteria set forth in “An Act to Provide Books for the Adult Blind,” approved March 3, 1931, 2 U.S.C. 135a, for the purpose of determining which students are eligible to use instructional materials produced using files in accordance with NIMAS and housed at the NIMAC. Under existing copyright law, students unable to read print due to physical limitations—those with visual impairments, physical disabilities, and some with learning/reading disabilities—(once qualified by a physician) will be provided with access to NIMAS-derived materials through FIMC-VI. Please note that the “competent authority” for determining eligibility may be different depending on the student’s disability.² Competent authority is defined in 36 CFR 701.10(b)(2) – Library of Congress regulations related to the Act to Provide Books for the Adult Blind.

- **Blind or visually impaired**

Students who meet the qualifications for State Board Rule 6A-6.03014, Florida Administrative Code (F.A.C.), *Exceptional Student Education Eligibility for Students*

² National Library Service. (2006). NLS: Governing Legislation. Retrieved October 31, 2008, from <http://www.loc.gov/nls/eligible.html>.

Who Are Visually Impaired, are provided accessible instructional materials from FIMC-VI. LEAs should follow current district procedures for ordering braille, large print, digital text, or audio books for students with visual impairments.

Ophthalmologists and optometrists performing medical evaluations, in accordance with Rule 6A-6.03014, F.A.C., meet the definition of competent authority. In Florida, in accordance with Rule 6A-6.0331, F.A.C., *General Education Intervention Procedures, Identification, Evaluation, Reevaluation and the Initial Provision of Exceptional Education Services*, individuals providing evaluative data related to a student's specialized instruction and related services must be licensed or certified to practice in Florida.

- **Physically disabled**

Accessible instructional material must also be provided for students who are unable to use standard printed material because of physical limitations as determined by a competent authority. These are students who cannot hold printed textbooks and turn their pages. A competent authority is defined to include doctors of medicine, doctors of osteopathy, therapists, registered nurses, and institution and public welfare agencies (e.g., social workers, case workers, counselors, rehabilitation teachers, and superintendents). In Florida, in accordance with Rule 6A-6.0331, F.A.C., *General Education Intervention Procedures, Identification, Evaluation, Reevaluation and the Initial Provision of Exceptional Education Services*, individuals providing evaluative data related to a student's specialized instruction and related services must be licensed or certified to practice in Florida.

- **Reading disabled**

Persons certified by a competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner, qualify for NIMAS as "print-disabled." A competent authority must be a doctor of medicine or osteopathy, who may consult with practitioners in other disciplines. In Florida, in accordance with Rule 6A-6.0331, F.A.C., *General Education Intervention Procedures, Identification, Evaluation, Reevaluation and the Initial Provision of Exceptional Education Services*, individuals providing evaluative data related to a student's specialized instruction and related services must be licensed or certified to practice in Florida.

D-2. Are struggling readers or students with learning disabilities eligible for NIMAS materials?

Persons with reading disabilities, regardless of severity, that do not have physiological origins, may qualify for accessible instructional materials. However, these individuals **do not** qualify for NIMAS materials. For these students, the LEA is responsible for providing accessible instructional materials when the IEP team determines that the use of such materials is necessary to provide a free appropriate public education (FAPE). For students who exhibit nonorganic factors—such as emotional or environmental causes; intellectual or educational deficiencies; or other possible nonorganic or nonphysical causes, including but not limited to, learning disabilities, dyslexia, attention deficit disorder, attention deficit hyperactivity disorder, autism (autism spectrum disorder), or

mental retardation [intellectual disabilities]³—the LEA must take all reasonable steps to provide instructional materials in accessible formats in a timely manner. [34 CFR 300.172(3)]

D-3. How does the IEP team determine if a student needs instructional materials in specialized formats?

Regardless of the type of eligibility (i.e., NIMAS or IDEA), the IEP team must determine if the student requires instructional materials in specialized formats to provide FAPE.

The IEP team must:

- Determine that a student is unable to read print material in a normal manner. (Determination should be made through learning media assessments, informal reading inventories, current levels of performance, medical diagnosis, etc.)
- Ensure that the student is certified as print-disabled by a competent authority.
 - Has a competent authority certified that the student’s visual disability, even with the best possible correction, prevents the reading of standard printed materials?
 - Has a competent authority certified that a student’s physical disability prevents the student from reading or using standard printed materials?
 - Has a competent authority certified the student as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent the student from reading printed material in a normal manner?
- Determine the specialized format appropriate for the student.
 - In accordance with Rule 6A-6.03028, F.A.C., and 34 CFR 300.324(a)(2)(iii), in the case of a student who is blind or visually impaired, instruction in braille and the use of braille must be considered unless the IEP team determines, after an evaluation of the student’s reading and writing skills, needs, including future needs, and appropriate reading and writing media, that instruction in braille or the use of braille is not appropriate for the student.
 - For students with physical disabilities or who are print disabled, the IEP team should review student information, including but not limited to, a learning media assessment, informal reading inventories, and present level of performance. Additionally, the IEP team should consult with physical therapists, technology specialists, and reading coaches to determine the appropriate specialized format.

In accordance with section 1008.22(3)(c)6., Florida Statutes, determine if a parent must provide signed consent for a student to receive instructional modifications that would not be permitted on the statewide assessment.

³ National Library Service. (1997). *National Library Service Factsheets: Talking Books and Reading Disabilities* (March 1997). Retrieved October 31, 2008, from <http://www.loc.gov/nls/reference/factsheets/readingdisabilities.html>

D-4. What information related to accessible instructional materials is documented in the IEP?

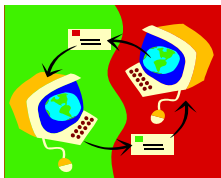
If a student with a print disability needs to use a specialized format, the IEP team should specify *each* of the following:

- The specific format(s) to be provided (braille, audio, digital text, large print, etc.)
- The services and/or assistive technology the student needs to use for the specialized format
- The individual(s) responsible for providing the specialized format
- Whether or not the format is required to be used in the student's home or in another setting in order for the student to receive FAPE

Appendices

Appendix A – Additional Resources

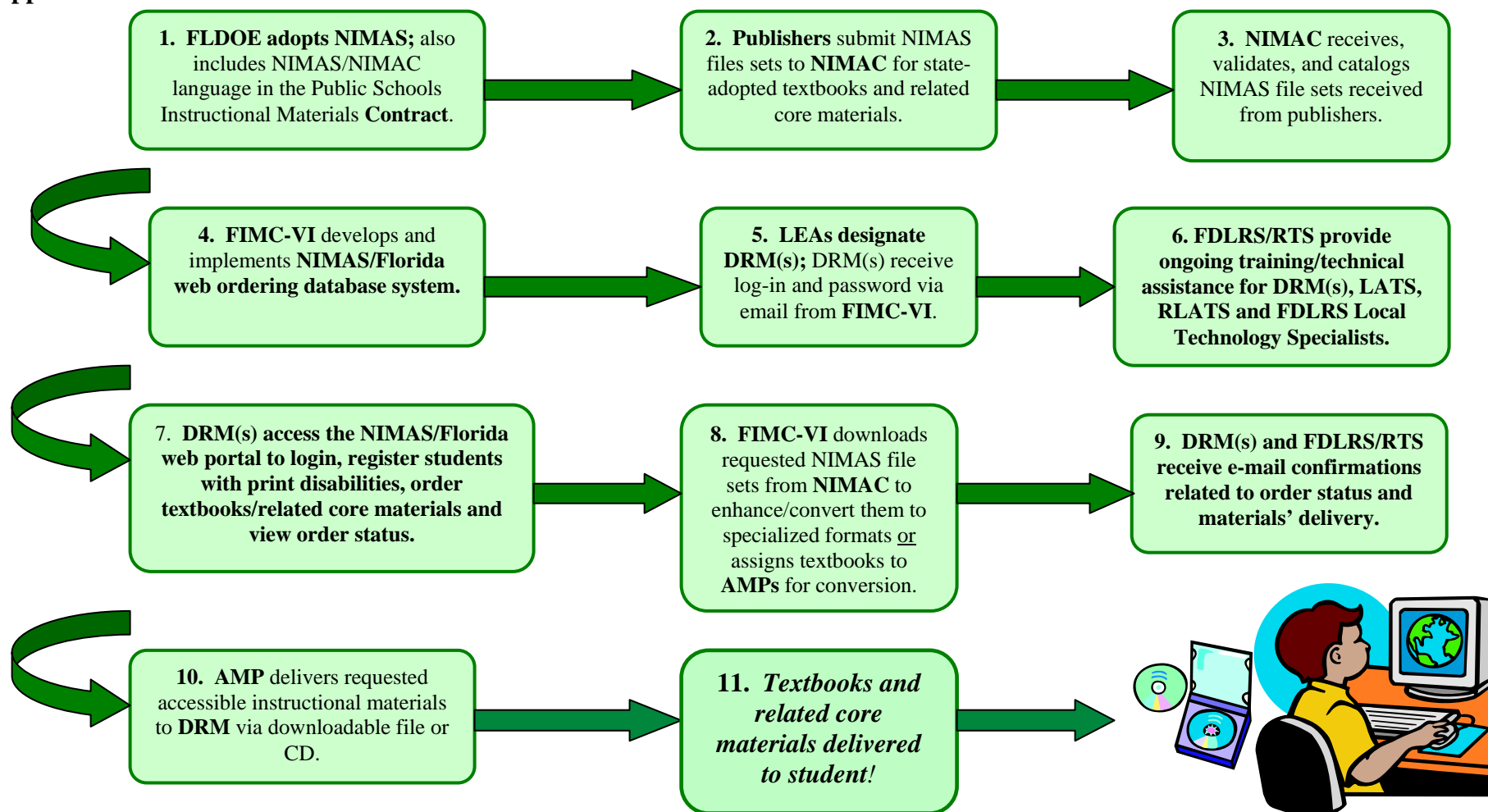
- **NIMAC** – www.nimac.us
 - Frequently Asked Questions – http://www.nimac.us/faq_general.html
- **NIMAS – Center for Applied Special Technology (CAST)** – <http://www.nimas.cast.org>
 - Resources – <http://www.nimas.cast.org/about/resources>
 - Frequently Asked Questions – <http://nimas.cast.org/about/faq/index.html>
 - Alternate Formats and Learning Materials – http://nimas.cast.org/about/resources/alternate_formats
 - Disability-Specific Resources – <http://nimas.cast.org/about/resources/disability>
 - Accessible Materials and the Classroom – http://nimas.cast.org/about/resources/accessible_textbooks
- **NIMAS – Office of Special Education Programs**
 - Regulations – http://nimas.cast.org/system/files/OSEP.NIMAS_Summary.pdf
 - Topic Brief – http://idea.ed.gov/frontend_dev.php/object/fileDownload/model/TopicalBrief/field/WordFile/primary_key/12
 - Questions and Answers – http://idea.ed.gov/object/fileDownload/model/QaCorner/field/WordFile/primary_key/5
 - Video – <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CVideoClips%2C8%2C>
- **Chafee Amendment** – <http://www.loc.gov/nls/reference/factsheets/copyright.html>



NIMAS/Florida

Accessible Instructional Materials

Appendix B – NIMAS/Florida



Acronyms:

AMPs: Accessible Media Producers

DRMs: Digital Rights Managers (District or Area level)

FDLRS Local Technology Specialists

FDLRS/RTS: FDLRS/Regional Technology Specialists

FIMC-VI: Florida Instructional Materials Center for the Visually Impaired

FLDOE: Florida Department of Education

LATS: Local Assistive Technology Specialists (District or Area level)

LEAs: Local Education Agencies

NIMAS: National Instructional Materials Accessibility Standard

NIMAC: National Instructional Materials Access Center

RLATS: Regional Local Assistive Technology Specialists